CITY OF HAYWARD
AGENDA REPORT

Planning Commission

Meeting Date: 6-28-01
Agenda Item: 2

TO: Planning Commission

FROM: Planning Manager

SUBJECT: Request by Golden Gate Broadcasting Company, Inc. for approval of Use Permit Application No. 01-160-11 to relocate its radio transmitter facilities from 3636 Enterprise Avenue to City-owned property near the western terminus of West Winton Avenue on a closed landfill site.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend that the City Council

- Adopt the mitigated negative declaration for the relocation of the KFAX radio towers, and
- Approve the use permit for the construction of the KFAX radio towers.

DISCUSSION:

Golden Gate Broadcasting Company, the owner of the towers, is proposing to raze the existing towers on Enterprise Avenue and replace them with new towers at a City-owned, closed landfill parcel at the end of West Winton Avenue (see attached aerial). This approximately 14-acre parcel north of the City oxidation ponds is classified as partially "Industrial" and partially "Open Space" by the General Plan Map. This Open Space designation does not necessarily preclude the location of uses such as towers. For example, P.G.&E. transmission lines and towers traverse many areas of the City designated as Open Space, including the Shoreline and Walpert Ridge. The Zoning Map indicates that the eastern portion of the parcel is within the Industrial District and the western portion is in the Flood Plain District. Towers have traditionally been allowed in the Industrial District. The Flood Plain district allows broadcast studios as a permitted use, but does not specifically mention radio towers. To accomplish relocation to this site, a determination must be made that radio towers are essentially an element of the broadcasting function and thus similar in character and use to a broadcast studio.

Mitigated Negative Declaration for Construction of KFAX Radio Towers

On May 24, 2001, an Environmental Checklist Form and a draft Mitigated Negative Declaration were circulated for public review. During this period staff received telephone calls and letters from individuals, businesses and agencies who expressed concerns about potential negative

impacts from the radio towers which they indicated were not adequately addressed in the environmental documents. These issues are:

1. Health and safety impacts on workers and visitors to the shoreline area near the proposed KFAX site.
2. Impacts from radio frequency interference on communication apparatus in the area, including East Bay Regional Park District, West Winton Business Park, and radio telemetry devices (SCADA).
3. Impacts from raptors perching on towers, which would have impacts on protected species.
4. Concern for the peregrine falcon
5. Potential for birds to collide with towers.
6. A request for a more precise project description, including the power of the facility.
7. A more recent survey for the presence of burrowing owls.

In reply to these matters, staff refined the Mitigated Negative Declaration and Environmental Checklist to address these issues, and they are discussed below.

With respect to the concern that there could be health and safety impacts on workers and visitors to the shoreline area near the location of the proposed radio towers, the new towers will have a combined power output of approximately 50 kilowatts. The base of the towers will be fenced to eliminate public access to the towers. Measurements made by the Federal Communications commission (FCC), the Environmental Protection Agency, and others have demonstrated that radio frequency energy levels in inhabited areas near broadcasting towers are generally well below maximum permissible exposure defined for general public exposure. According to the Federal Communications Commission, reports of events when the maximum permissible exposure level are exceeded are found to be rare. Public access to the KFAX broadcast antennae will be restricted to ensure individuals are not exposed to radio frequency energy that exceed the maximum permissible exposure levels, as required by FCC. The buffer zone distance required to accomplish this goal will be a minimum of 13 feet. Therefore, fencing and posted warning signs will be installed around each tower to prevent public access.

At lower levels of exposure to radio frequency energy, the evidence for production of harmful health effects is ambiguous and unproven. Recent research studies in laboratories throughout North America and Europe have examined the possibility of a link between radio frequency energy exposure to laboratory animals and various "non-thermal" effects such as changes in the immune system, neurological effects, behavioral effects, and effects on DNA. Some links have been reported from these live animal and animal tissue studies conducted under specific conditions; however, there is currently not conclusive evidence about the relevance of these studies to human health, according to the FCC.

Laboratory studies have also examined the possibility of a link between radio frequency exposure and cancer. Some study results have suggested a link between exposure and tumor formation in animals under specific conditions; however, these results have not been replicated. Other studies have failed to find any causal link, per the FCC. In addition, some epidemiological studies (studies on large human population groups) have identified a weak association between

exposure and cancer; however, a large number of equivalent studies have shown no association. Research is ongoing; however, at the present time there is no conclusive evidence of a link between radio frequency exposure and cancer. Regarding possible impacts on implanted pacemakers for park users, the U.S. Food and Drug Administration requires that pacemaker manufacturers test their devices for susceptibility to interference over a wide range of frequencies prior to market approval to demonstrate their products are reliable during exposure to radio frequency energy. Electromagnetic shielding has been incorporated into the design of modern pacemakers to prevent radio frequency signals from interfering with the pacemaker electronics.

With regard to radio frequency interference, as indicated in the Mitigated Negative Declaration, matters of radio frequency interference are the responsibility of the Federal Communications Commission. The U.S. "Code of Federal Regulations" outlines the responsibility of the KFAX licensee concerning matters of interference as follows: "*The licensee of each broadcast station is required to satisfy all reasonable complaints of blanketing interference within the 1mv/m (blanketing) contour.*" This "blanketing" signal represents the field strength within which interference, if there is interference, is likely to occur. It should be noted that according to Evans Associates, Consulting Communications Engineers, Thiensville, Wisconsin, well constructed professional systems that use interference-resistant wiring are much less likely to receive interference than consumer-grade equipment at any distance from an AM transmitter. The AM station itself employs computer control equipment that is installed on-site immediately adjacent to the AM array. KFAX will be required to mitigate instances of interference within an average radius of approximately 3.5 kilometers from the center of the new KFAX array. In any case, FCC rules and associated contractual agreements outline the responsibilities of KFAX and Calpine with respect to interference matters. It is the opinion of the consulting engineering firm that there is minimal possibility that any identified instances of electro-magnetic interference will not respond to well known mitigation techniques.

With regard to raptors using the radio towers as perching points that affords them the opportunity to prey on protected species, such as the salt marsh harvest mouse, the Mitigated Negative Declaration concludes that the impacts resulting from bird strikes will not be significant. The new KFAX broadcast tower latticework could be used by raptorial birds for perching and sighting prey, which might include endangered and threatened species such as the salt marsh harvest mouse, least tern, or clapper rail. This is unlikely to become a significant problem with the new KFAX towers, however, because of the distance between the towers and good salt marsh (harvest mouse, clapper rail) or mud flat (least tern) habitat next to the radio tower locations. The nearest salt marshes to the towers are not located next to the towers, but are some distance away. The potential effect on endangered or threatened species would thus not be significant. Towers with diagonal latticework, furthermore, could discourage raptor perching, particularly when there are other horizontal perches nearby.

Peregrine falcons are known to inhabit the San Francisco Bay Area. These are predatory raptors that hunt by flying to a relatively high altitude to locate prey, then swooping down on them. Formerly an endangered species, the peregrine flacon had recovered sufficiently that the U. S. Fish and Wildlife Service removed it from the Endangered Species List several years ago. Broadcast towers with guy wires might cause falcon mortality due to collisions, but these birds

have excellent eyesight and are well known inhabitants of urban downtowns, where they prey on pigeons while navigating similar kinds of obstacles. Unguyed towers for KFAX should not pose a significant obstacle to the peregrine flacon. It is unlikely that peregrine falcons would use the broadcast towers for perching and spying prey among special status species living near the towers because these birds habitually hunt from relatively high altitude flight patterns, rather than from fixed perches.

Regarding the potential for bird strikes, the KFAX towers in their current location pose a greater risk in that they are slimmer that the proposed freestanding monopoles and are supported by thin guy wires. Birds will more readily see the new towers. Mortality events tend to occur when it is stormy or foggy or during the nights when there is a low cloud ceiling. Fortunately for Hayward, there are few foggy days. Also, mortality events largely occur in towers greater than 400 to 500 feet in height. There has been one individual who has been responsible for maintaining the current KFAX site on Enterprise Avenue. He indicates that in the twenty years that he has walked the site, he has never come upon a dead bird. It is known that lights can distract birds, and the towers will require lights for aviation safety. However, a condition of approval requires the minimum amount of pilot warning and obstruction avoidance lighting required by the FAA. It is also known that white lights are less distracting than red lights, so a condition of approval requires white lights unless otherwise directed by the FAA. Also, a condition requires that any security lighting at or near the accessory buildings at the base of the towers be cast downward. Finally, should the towers become obsolete and no longer used, they will be required to be removed.

Staff believes that all potential impacts from the construction of the radio towers can be mitigated and that adoption of the Mitigated Negative Declaration is appropriate.

A request was made for a better project description, and this information has been provided in the Mitigated Negative Declaration, including height, design, and proposed colors. A map has been added to more precisely identify the locations of the tower.

During recent surveys, there were no burrowing owls on the site. Moreover, the site is regularly disked and seeded in order to, in part, discourage burrowing animals from settling there. This is essential in order to maintain the integrity of the clay cap over the closed landfill. To ensure that there are no burrowing owls on the property, an additional survey will be required within thirty days of construction of the tower.

Use Permit for Radio Towers

The four KFAX radio towers are currently located on Enterprise Avenue, across from the City's Waste Water Treatment Plant. They are thin poles supported by guy wires. When relocated, they will be new self-supporting monopoles (no guy wires). Small accessory (equipment) structures will be located at the base of each tower, and the area surrounding the tower and accessory structures will be fenced to prevent vandalism to the equipment.

The towers are proposed to be situated upon the elevated closed landfill just to the south of the parking area and the entrance to the shoreline trail, which lie beyond the terminus of West

Winton Avenue. The rise is currently accessible to the public and overlooks the City's oxidation ponds. The area is not a part of the trail system; however, it serves as a viewing point of the surrounding area. As a closed landfill site, it is covered with a clay cap to prevent seepage of water into the landfill. The cap is overlain with earth, which is disked and seeded each year. The purpose of disking the area is to prevent plants and animals from compromising the integrity of the clay cap, and the newly seeded earth is meant to prevent erosion and provide an attractive setting. Because the land is disked and seeded yearly, the site is not suited to plant and animal species in protected categories. Except for the fenced areas around the base of each tower, the public can still enjoy access to the area.

As mentioned above, the land is both in the Industrial District and the Flood Plain District. The purpose of the Industrial District is to provide for industrial uses in areas that will have a minimum of detriment to surrounding properties. The purpose of the Flood Plan District is to enforce regulations that serve to protect persons and properties from the hazards of development in areas subject to tidal or flood water inundation. In staff's opinion, the KFAX radio tower would be not be inconsistent with these purposes.

Conclusion

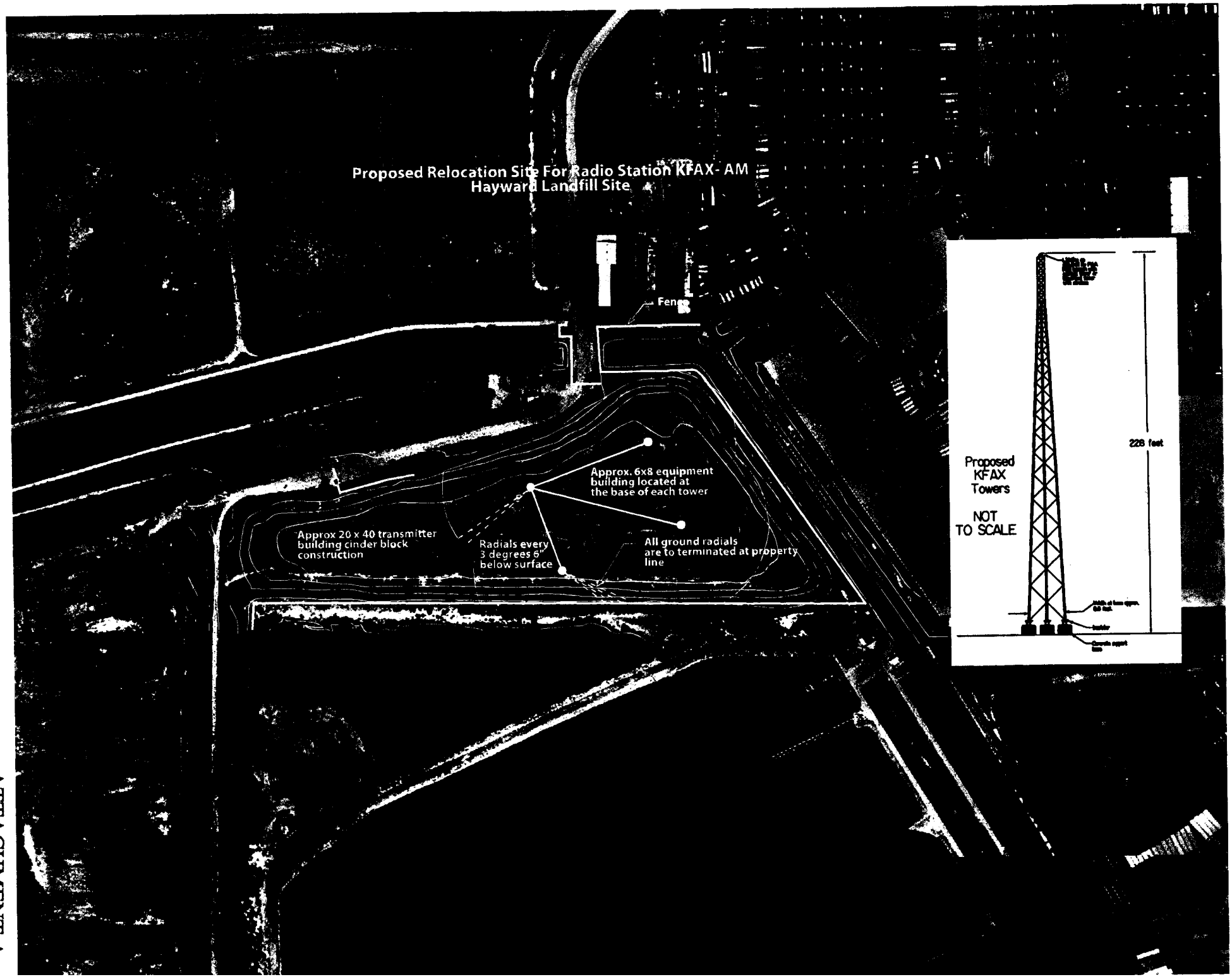
In staff's opinion the proposed project conforms with the City's General Plan and Zoning Ordinance; the Mitigated Negative Declaration for the KFAX radio towers, as refined, should be adopted, and the use permit thereof approved.

Prepared by:

Dyana Anderly

Dyana Anderly, AICP
Planning Manager

Attachments:
A. Aerial of Proposed Tower Relocation Site
B. Findings of Conformity
C. Environmental Checklist
D. Draft Mitigated Negative Declaration
E. Conditions of Approval of the KFAX Towers
F. Mitigation Monitoring Plan



ATTACHMENT A

FINDINGS FOR APPROVAL
USE PERMIT APPLICATION No. 01-160-11
Golden Gate Broadcasting Company (Applicant)

Based on the staff report and the public hearing record:

1. Approval of Use Permit Application No. 01-160-11, as conditioned, will have no significant impact on the environment, cumulative or otherwise, and the Mitigated Negative Declaration prepared for this project is in conformance with the provisions of the California Environmental Quality Act.

2. The relocation of the four KFAX radio towers is desirable for the public convenience and welfare because it provides a convenient and necessary service to the City's residents.

3. The relocation of the radio towers will not impair the character and integrity of the Industrial District because the subject towers are already in existence in the District, and similar structures, including PG&E towers, are located in the District. There will be no change to the District by their relocation, they are in character with the surrounding uses and will not have a detriment to surrounding properties.

4. The relocation of the radio towers will not impair the character and integrity of the Flood Plain District because the siting of the towers will not result in exposing persons or properties to tidal or flood water inundation and similar structures, such as PG&E transmission towers, are found in the district..

5. The relocation of the radio towers will not be detrimental to the public health, safety, or general welfare in that mitigation measures will be imposed to ensure that the project will not have a significant impact on the environment.

6. The relocation of the radio towers is in harmony with applicable City policies as well as the intent and purpose of the zoning district in that the use will be compatible with the Industrial and Flood Plain Districts and the neighboring open space and industrial activities.

Environmental Checklist Form

(Clarifications added June 22, 2001 in italics)

1. Project title: **Use Permit 01-160-11 to Raze existing KFAX Radio Station Transmitter Facilities from Enterprise Avenue and Relocate them to near the western terminus of West Winton Avenue.**

2. Lead agency name and address: **City of Hayward**

3. Contact person and phone number: **Dyana Anderly, AICP, Planning Manager, 510.583.4214**

4. Project location:
   The project location is on the eastern panhandle area of the closed Old West Winton landfill, located near the western terminus of West Winton Avenue. The City of Hayward owns the property.

5. Project sponsor's name and address: **Golden Gate Broadcasting Co., Inc.**

6. General plan designation: **"Industrial" and "Baylands"**

7. Zoning: **"Industrial" and "Floodplain"**

8. Description of project:

   The project consists of construction of four, 228-foot-high (above ground), *1100 KHz., a combined power output of approximately 50 kilowatts,* self-supporting AM radio transmitter facilities and associated transmitter facilities on the proposed location near the western terminus of West Winton Avenue, and removal of the existing KFAX transmitter facilities from their current location at 3636 Enterprise Avenue, opposite the City's waste water treatment plant. While the existing towers are supported by "guy" wires, the proposed new towers will be self-supporting monopoles. *The base of each tower will be enclosed within secure fencing to eliminate public access to the towers. The attached map more directed identified the location.*

9. Surrounding land uses and setting:

   The City's wastewater treatment ponds are located immediately to the south. A large, closed landfill is located to the southwest. The Alameda County flood control channel and the All Cities Landfill, a landfill in the process of being closed and capped, lie to the north. To the east is developed area zoned Industrial that contains industrial and office uses and several automobile salvage yards. Further west, towards San Francisco Bay are the Hayward Regional Shoreline Hiking Trails.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

    Alameda County Flood Control and Water Conservation District
    Federal Communications Commission
    Federal Aviation Administration
    San Francisco Bay Regional Water Quality Control Board

ATTACHMENT C

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☒ Aesthetics	☐ Agriculture Resources	☐ Air Quality
☒ Biological Resources	☐ Cultural Resources	☐ Geology /Soils
☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality	☒ Land Use / Planning
☐ Mineral Resources	☐ Noise	☐ Population / Housing
☐ Public Services	☐ Recreation	☒ Transportation/Traffic
☐ Utilities / Service Systems	☐ Mandatory Findings of Significance	

DETERMINATION:

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Dyana Anderly
Signature

May 24, 2001
Date

Sylvia Ehrenthal DYANA ANDERLY
Printed Name

City of Hayward
Agency

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☒	☐	☐

Comment: The existing KFAX radio transmitter facilities are situated within view of the Hayward shoreline area and State Route 92; therefore, replacing them with new towers at another location that is similarly visible from the shoreline will not have a significant negative visual impact as viewed from strategic viewpoints. In addition, the existing KFAX towers are supported by guy wires, whereas the new towers will be self-supporting monopoles. This design will further reduce their visual impact. As the towers are tall, thin, will be finished in galvanized gray, and are of lattice construction, they will recede into view to some extent. Although the presence of radio towers changes the composition of the view somewhat, the radio towers do not substantially change either the view's character or quality. As viewed from a distance 0.5 miles from the proposed site, the lower third of the towers would be visually absorbed into the backdrop provided by the distant ridgeline of the East Bay hills. Because they are so thin, the upper portions of the towers recede into the sky behind them.

The new facilities will include a transmitter equipment enclosure and small electronics enclosures at the base of each radio transmission tower. These transmitter equipment enclosures will be constructed of concrete masonry units using a decorative finish such as slumpstone, non-glare roof materials, and will be finished with earth tone paint. They will also be required to be as small as possible. A small pre-fabricated metal equipment cabinet will be installed near the base of each tower. These cabinets will also be finished in earth-tone paint.

Fencing surrounding the structures will be tubular metal or similar and of a color to blend with the surroundings.

The site will continue to be covered with native grasses.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☒	☐	☐

Comment: The new radio transmitter facilities would be located on a former landfill, where there are no significant trees, rock outcroppings, or historic buildings. With regard to the views of the bay and shoreline, see I a) above.

c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☒	☐	☐

Comment: See 1 a) above.

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☒	☐	☐

Comment: Aircraft warning lights will be required to alert aircraft of the location of the radio transmitter facilities. These lights will be white strobes. These strobe lights will be similar to those in the use on the nearby KTCT transmitter towers. The new aircraft warning lights will not have a significant visual impact as viewed from ground level. Project light fixtures necessary for safety, security, and operations and will be shielded from public view, and non-glare fixtures and the use of switches, sensors, and timers will be used to minimize the time that lights not needed for safety and security are on.

II. **AGRICULTURE RESOURCES**: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

Comment: As a former landfill site with a clay cap, the site does not have significant value for agricultural uses and has not been used for this purpose in the past. Irrigation to the site for agricultural purposes could compromise the integrity of the protective surface of the former landfill.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒

Comment: See II above.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒

Comment: See II above.

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☒

Comment: see II above.

III. **AIR QUALITY** -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒

Comment: Access to the site during construction and for maintenance purposes will be required to be surfaced with a material that prevents, to the extent possible, vehicles from tracking mud and dust onto public streets. In addition, wheels may be required to be washed before entering the public street. With the cited mitigation in place, there will be no significant adverse air quality impacts.

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒

Comment: The project is not expected to contribute toward air pollution, and there are no sensitive receptors in the vicinity of the project.

Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒

IV. **BIOLOGICAL RESOURCES** -- Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☒	☐

Comment:

Special environmental areas in the vicinity of the site include a brackish slough that drains into Hayward Landing, managed by the Hayward Area Park and Recreation District. Biological field surveys for the project were conducted by biologist Brett D. Hartman on February 27 and March 25, 2001. The entire project site was surveyed intensively, and biological reconnaissance of an area within one mile of the project site was also conducted.

Ruderal species such as wild barley (Hordeum leporinm) ripgut grass (Bromus diandrus), and black mustard (Brassica nigra dominate the site. These grasses that are not candidate, sensitive, or special status species.

Listed animal species in the area include the salt marsh harvest mouse *(Reithrodontomys raviventris)* clapper rail *(Rallus longirostris obsoletus)* and salt-marsh wandering shrew *(Sorex vagrans halicoetes);* however, no supporting habitat or other evidence that the site benefits these species was found on the site. Bird species observed on the site included red-winged black birds, barn swallows, and Canada geese.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*

Relocation of the radio transmitter facilities could result in the loss of individuals of several wildlife species that occupy this site or are dependent upon this site for specific physiological and ecological requirements. However, these species are common to many areas, have no regulatory protective status, and are primarily limited to burrowing rodents (i.e., ground squirrel [*Spermophylus sp.*], pocket gophers [*Thomomys sp.*], and voles [*Microtis sp.*]

With regard to raptors using the radio towers as perching points that affords them the opportunity to prey on protected species, such as the salt marsh harvest mouse, the new KFAX broadcast tower latticework could be used by raptorial birds for perching and sighting prey, which might include endangered and threatened species such as the salt marsh harvest mouse, least tern, or clapper rail. This is unlikely to become a significant problem with the new KFAX towers, however, because of the distance between the towers and good salt marsh (harvest mouse, clapper rail) or mud flat (least tern) habitat next to the radio tower locations. The nearest salt marshes to the towers are not located next to the towers, but are some distance away. The potential effect on endangered or threatened species would thus not be significant. Towers with diagonal latticework, furthermore, could discourage raptor perching, particularly when there are other horizontal perches nearby.

Peregrine falcons are known to inhabit the San Francisco Bay Area. These are predatory raptors that hunt by flying to a relatively high altitude to locate prey, then swooping down on them. Formerly an endangered species, the peregrine flacon had recovered sufficiently that the U. S. Fish and Wildlife Service removed it from the Endangered Species List several years ago. Broadcast towers with guy wires might cause falcon mortality due to collisions, but these birds have excellent eyesight and are well known inhabitants of urban downtowns, where they prey on pigeons while navigating similar kinds of obstacles. Unguyed towers for KFAX should not pose a significant obstacle to the peregrine flacon. It is unlikely that peregrine falcons would use the broadcast towers for perching and spying prey among special status species living near the towers because these birds habitually hunt from relatively high altitude flight patterns, rather than from fixed perches.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*

Prior to construction of the radio transmission facilities (within 30 days) a survey is required to be carried out by a wildlife biologist for the presence of burrowing owl, northern harrier, and short-eared owl. A 250-foot buffer is required to be established around any next of these species prior to initiating installation of the radio transmitter facilities. Alternatively, construction may wait until the young have fledged before installing the towers.

As a former landfill site with a clay cap, the integrity of the cap is essential in maintaining the integrity of the landfill. In order to insure that burrowing animals do not occupy the site and to reduce weeds, the site is disced each year. Therefore, the likelihood that the site provides habitat for protected species is remote. To ensure that there are no burrowing owls on the property, an additional survey will be required within thirty days of construction of the tower.

Monitoring of construction activities will be carried out by personnel trained to detect any potential and unforeseen impacts on listed, sensitive, or migratory wildlife and their habitats adjacent to the site. If actual or potential effects are detected, the construction foreman will cease the activities that are potentially affecting these species and will consult with a professional biologist qualified to assess the situation and make recommendations to alter or alleviate any activities that are resulting in these effects.

Impacts to wildlife due to the radio transmitter facilities towers will be mitigated through the use of self-supporting supporting broadcast towers. Impacts to wildlife due to collisions with the transmitter facilities are not expected to be significant. Inspections of the current radio transmission tower site over a period of years by maintenance personnel did not reveal evidence that wildlife that had died or had been injured by collisions with the radio transmitter facilities. While literature linked to collisions of migratory birds with radio transmitter facilities suggests that impacts may occur when the towers are obscured by fog, the Hayward shoreline area is rarely effected by fog.

The KFAX towers in their current location pose a greater risk in that they are slimmer that the proposed freestanding monopoles and are supported by thin guy wires. Birds will more readily see the new towers. Mortality events tend to occur when it is stormy or foggy or during the nights when there is a low cloud ceiling. Fortunately for Hayward, there are few foggy days. Also, mortality events largely occur in towers greater than 400 to 500 feet in height. It is known that lights can distract birds, and the towers will require lights for

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*

aviation safety. However, a condition of approval requires the minimum amount of pilot warning and obstruction avoidance lighting required by the FAA. It is also known that white lights are less distracting than red lights, so a condition of approval requires white lights unless otherwise directed by the FAA. Also, a condition requires that any security lighting at or near the accessory buildings at the base of the towers be cast downward. Should the towers become obsolete and no longer used, they will be required to be removed.

Biologists will conduct additional field surveys in June for the Hispid's birds beak, Point Reyes bird's beak, and Delta tule pea. In the event that these plants are identified on the site during their blooming phases, additional consultation with regulatory agencies and mitigation planning will be undertaken to ensure that any potential impact to these species is mitigated to a level below significance.

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☒	☐

Comment: See IV a) above.

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒

Comment: There are no identified wetlands on that portion of the project site that will be occupied by radio transmitter facilities or their associated apparatus.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☒	☐

Comment: See IV a) above.

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?	☐	☐	☐	☒

Comment: See IV a) above.

V. **CULTURAL RESOURCES** -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	☐	☐	☐	☒

Comment: The radio transmitter facilities will be located on a portion of a former landfill which is filled with many thousands of yards of household garbage. There is approximately 2 feet of fill overlying the clay cap that covers the landfill. The landfill is not known to contain any significant historical resources, and driving foundation pilings for the towers will not expose any potential historical resources.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	☐	☐	☐	☒

Comment: Radio transmitter facilities will be located on a portion of a former landfill containing household refuse. There is no reason to suspect that the landfill contains any significant archaeological resources.

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒

Comment: Radio transmitter facilities will be located on a portion of a former landfill containing household refuse. The landfill does not contain any paleontological resources and the driving foundation pilings for the towers will not expose any potential paleontological resources.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

Comment: Radio transmitter facilities will be located on a portion of a former landfill. There is no reason to believe that the landfill contains any human remains.

VI. **GEOLOGY AND SOILS** -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☒	☐

Comment: *The new towers will have a combined power output of approximately 50 kilowatts. The base of the towers will be fenced to eliminate public access to the towers. Measurements made by the Federal Communications Commission (FCC), the Environmental Protection Agency, and others have demonstrated that radio frequency energy levels in inhabited areas near broadcasting towers are generally well below maximum permissible exposure defined for general public exposure. According to the FCC, reports of events when the maximum permissible exposure level are exceeded are found to be rare. Public access to the KFAX broadcast antennae will be restricted to ensure individuals are not exposed to radio frequency energy that exceed the maximum permissible exposure levels, as required by FCC. The buffer zone distance required to accomplish this goal will be a minimum of 13 feet. Therefore, fencing and posted warning signs will be installed around each tower to prevent public access.*

	Potentially Significant Impact	Potentially Significant Unless Mitigation Incorporation	Less Than Significant Impact	No Impact

At lower levels of exposure to radio frequency energy, the evidence for production of harmful health effects is ambiguous and unproven. Recent research studies in laboratories throughout North America and Europe have examined the possibility of a link between radio frequency energy exposure to laboratory animals and various "non-thermal" effects such as changes I the immune system, neurological effects, behavioral effects, and effects on DNA. Some links have been reported from these live animal and animal tissue studies conducted under specific conditions; however, there is currently not conclusive evidence about the relevance of these studies to human health, according to the FCC.

Laboratory studies have also examined the possibility of a link between radio frequency exposure and cancer. Some study results have suggested a link between exposure and tumor formation in animals under specific conditions; however, these results have not been replicated. Other studies have failed to find any causal link, per the FCC. In addition, some Epidemiological studies (studies on large human population groups) have identified a weak association between exposure and cancer; however, a large number of equivalent studies have shown no association. Research is ongoing; however, at the present time there is no conclusive evidence of a link between radio frequency exposure and cancer.

Regarding possible impacts on implanted pacemakers for park users, the U.S. Food and Drug Administration requires that pacemaker manufacturers test their devices for susceptibility to interference over a wide range of frequencies prior to market approval to demonstrate their products and are reliable during exposure to radio frequency energy. Electromagnetic shielding has been incorporated into the design of modern pacemakers to prevent radio frequency signals from interfering with the pacemaker electronics.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒

Comment: The site is not within the Earthquake Hazard Zone. The Hayward Fault passes about 4 miles northeast of the site, while the San Andreas Fault passes about 14 miles southwest of the site.

ii) Strong seismic ground shaking?	☐	☒	☐	☐

Comment: Damage to the towers and transmitter buildings from high levels of ground shaking will be substantially reduced by requiring proper seismic design. To reduce structural damage due to continuing consolidation of fill, pile foundations will be required to be designed to include the negative friction (downdrag) imposed by consolidation of the upper 20 feet of material and tower pads and pilings will be designed in accordance with CBC, Seismic Zone 4 requirements.

iii) Seismic-related ground failure, including liquefaction?	☐	☒	☐	☐

Comment: See VI a) i) above. Tower pads will be designed to withstand the strong ground motion and ground failure (liquefaction) of a design earthquake.

iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
b) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒

Comment: See VI a) i) above.

c) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒

Comment: See VI a) i) above.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
d) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒
VII. **HAZARDS AND HAZARDOUS MATERIALS** – Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
Comment: No hazardous materials of a significant threshold are anticipated to be used at the site.				
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
Comment: The site will not be used for residential or employment purposes. Employees will visit the site only periodically for equipment maintenance purposes.				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒
VIII. **HYDROLOGY AND WATER QUALITY** -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☒

Comment: A drainage plan is required to be approved by the City Engineer prior to issuance of a building permit for the radio transmitter facilities and accessory structures. The San Francisco Bay Regional Water Quality Control Board also has authority over drainage on the site, and their approval is required before issuance of a building permit for construction of the radio transmitter facilities and accessory structures.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	☐	☒	☐	☐

Comment: A drainage plan is required to the approved by the City Engineer prior to issuance of a building permit for the radio transmitter facilities and accessory structures. The San Francisco Bay Regional Quality Control Board also has authority over the drainage system, and their approval of the project will be required prior to issuance of building permits for construction of the radio transmitter facilities and accessory structures.

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐

Comment: A drainage plan is required to the approved by the City Engineer prior to issuance of a building permit for the radio transmitter facilities and accessory structures.

f) Otherwise substantially degrade water quality?	☐	☐	☐	☒

Comment: The project requires approval of the San Francisco Bay Regional Water Quality Control Board which is required to be obtained prior to issuance of building permits for construction of the radio transmitter facilities and accessory buildings.

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒

Comment: No housing is proposed.

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam	☐	☐	☐	☒
i) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒
IX. **LAND USE AND PLANNING** - Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒

Comment: The approximately 14-acre parcel is classified as "Industrial" and "Open Space" by the General Plan Map. This designation does not necessarily preclude the location of uses such as towers. For example, P.G.&E. transmission lines and towers traverse many areas of the City designated as Open space, including the Shoreline and Walpert Ridge. The Zoning Map indicates that eastern portion of the parcel is within the Industrial District and the western portion is in the Flood Plain District. Towers have traditionally been allowed in the Industrial District. The Flood Plain district allows broadcast studios as a permitted use, but does not specifically mention radio towers. To accomplish relocation to this site, by certifying this environmental document, the approving body is determining that the radio transmitter facilities are essentially an element of the broadcasting function and thus similar in character and use to a broadcast studio.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Comment: The San Francisco Bay Conservation and Development Commission has "bay" permit jurisdiction over all portions of the Bay that are subject to tidal action, and "shoreline band" permit jurisdiction over the first 100 feet of shoreline inland from the line of highest tidal action. Construction within the Commission's jurisdiction would require a permit from the Commission; however, none of the proposed radio transmitter facilities are within the Commission's shoreline band jurisdiction. As the site is entirely within a landfill, with on-site elevations of over 10 feet, there is no on-site tidal action.

The Hayward Area Shoreline Planning Agency was formed in 1971 as an advisory agency to coordinate planning for the eight miles of shoreline between the Alameda Creek Flood Control Channel to the south and the San Leandro City limits to the north. The agency's advisory status was established under an intergovernmental joint exercise of powers agreement. The agencies participating in thisAgreement are East Bay Regional Park District, Hayward Area Recreation and Park District, City of Hayward, Hayward Unified School District, and San Lorenzo Unified School District. On March 15, 2001, during a public meeting, members of the Hayward Area

Shoreline Planning Agency did not take exception to reasoning that the Russell City Energy Center and the proposed new KFAX radio transmitter facilities at subject site would be consistent with the City's General Plan and zoning.

X. **MINERAL RESOURCES** -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒

Comment: As a former landfill site, there are no known significant mineral resources.

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
XI. **NOISE** – Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
XII. **POPULATION AND HOUSING** -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
XIII. **PUBLIC SERVICES**				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☐	☒
Comment: Access for fire suppression equipment will be required to be maintained to the site for fire protection purposes.				
Police protection?	☐	☐	☐	☒
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☒	☐
Other public facilities?	☐	☐	☐	☒
XIV. **RECREATION** --				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒
XV. **TRANSPORTATION/TRAFFIC** -- Would the project:				

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☐	☐	☐	☒

Comment: The only traffic associated with the project (outside the construction phase) is infrequent periodic maintenance vehicles.

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☒	☐	☐

Comment: The project site is approximately 4,900 feet from the nearest point of the nearest runway to the Hayward Executive Airport. Due to the proposed height of the radio transmitter facilities, Federal Aviation Administration (FAA) regulations require an airspace analysis by them. FAA approval is required before issuance of building permits for the radio transmitter facilities. In addition to evaluating the proposal with respect to the Hayward Executive Airport, the FAA analysis will include potential impacts and mitigation measures relative to air traffic approaching the Oakland International Airport.

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Result in inadequate parking capacity?	☐	☐	☐	☒
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
XVI. **UTILITIES AND SERVICE SYSTEMS** – Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒

Comment: Other than during the construction phase of the project, there will not be a significant amount of solid waste associated with the radio transmitter facilities.

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
Result in radio interference with other transmitters and in receivers.	☐	☐	☒	☐

Comment: The project requires FCC clearance before issuance of a building permit.

Matters of radio frequency interference are the responsibility of the Federal Communications Commission. The U.S. "Code of Federal Regulations" outlines the responsibility of the KFAX licensee concerning matters of interference as follows: "The licensee of each broadcast station is required to satisfy all reasonable complaints of blanketing interference within the 1mv/m (blanketing) contour. "This "blanketing" signal represents the field strength within which interference, if there is interference, is likely to occur. Well constructed professional systems that use interference-resistant wiring are much less likely to receive interference than consumer-grade equipment at any distance from an AM transmitter. The AM station itself employs computer control equipment that is installed on-site immediately adjacent to the AM array. KFAX will be required to mitigate instances of interference within an average radius of approximately 3.5 kilometers from the center of the new KFAX array. In any case, FCC rules and associated contractual agreements outline the responsibilities of KFAX and Calpine with respect to interference matters.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐

	Potentially Significant Impact	*Potentially Significant Unless Mitigation Incorporation*	*Less Than Significant Impact*	*No Impact*
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

DEPARTMENT OF
COMMUNITY AND ECONOMIC DEVELOPMENT
Development Review Services Division

MITIGATED NEGATIVE DECLARATION

Notice is hereby given that the City of Hayward finds that no significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. *PROJECT DESCRIPTION*:

USE PERMIT APPLICATION 01-160-11 – GOLDEN GATE BROADCASTING CO., INC. (APPLICANT), CITY OF HAYWARD (OWNER). Request to construct four, 228-foot-high (above ground) self-supporting AM radio transmitter facilities and associated transmitter facilities on the proposed location near the western terminus of West Winton Avenue, and removal of the existing KFAX transmitter facilities from their current location at 3636 Enterprise Avenue, opposite the City's waste water treatment plant. While the existing towers are supported by "guy" wires, the proposed new towers will be self-supporting monopoles.

II. *FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT*:

The proposed project, as conditioned, will have no significant effect on the area's resources, cumulative or otherwise.

III. *FINDINGS SUPPORTING DECLARATION*:

1. The project application has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.

2. The project is in conformance with the General Policies Plan Map designations of "Industrial" and "Baylands" as these designations do not necessarily preclude the location of uses such as towers.

3. The project is in conformance with the intent and purpose of the Zoning Ordinance designation of "Industrial" and "Floodplain" in that eastern portion of the parcel is within the Industrial District and the western portion is in the Flood Plain District. Towers have traditionally been allowed in the Industrial District. The Floodplain district allows broadcast studios as a permitted use, but does not specifically mention radio towers. To accomplish relocation to this site, by certifying this environmental document, the approving body is determining that the radio transmitter facilities are essentially an

element of the broadcasting function and thus similar in character and use to a broadcast studio.

4. Impacts to wildlife due to the radio transmitter facilities towers will be mitigated through the use of self-supporting supporting broadcast towers. Impacts to wildlife due to collisions with the transmitter facilities are not expected to be significant. Inspections of the current radio transmission tower site over a period of years by maintenance personnel did not reveal evidence that wildlife that had died or had been injured by collisions with the radio transmitter facilities. While literature linked to collisions of migratory birds with radio transmitter facilities suggests that impacts may occur when the towers are obscured by fog, the Hayward shoreline area is rarely effected by fog.

5. Radio transmitter facilities will be located on a portion of a former landfill containing household refuse. There is no reason to suspect that the landfill contains any significant archaeological, paleontological, or agricultural resources.

6. Requiring proper seismic design will substantially reduce damage to the towers and transmitter buildings from high levels of ground shaking. To reduce structural damage due to continuing consolidation of fill, pile foundations will be required to be designed to include the negative friction (downdrag) imposed by consolidation of the upper 20 feet of material and tower pads and pilings will be designed in accordance with CBC, Seismic Zone 4 requirements.

7. A drainage plan is required to be approved by the City Engineer prior to issuance of a building permit for the radio transmitter facilities and accessory structures. The San Francisco Bay Regional Water Quality Control Board also has authority over drainage on the site, and their approval is required before issuance of a building permit for construction of the radio transmitter facilities and accessory structures.

8. The project site is approximately 4,900 feet from the nearest point of the nearest runway to the Hayward Executive Airport. Due to the proposed height of the radio transmitter facilities, Federal Aviation Administration (FAA) regulations require an airspace analysis by them. FAA approval is required before issuance of building permits for the radio transmitter facilities. In addition to evaluating the proposal with respect to the Hayward Executive Airport, the FAA analysis will include potential impacts and mitigation measures relative to air traffic approaching the Oakland International Airport.

IV. *PERSON WHO PREPARED INITIAL STUDY:*

Dyana Anderly, AICP, Planning Manager

Dated: May 24, 2001

V. *COPY OF INITIAL STUDY IS ATTACHED*

For additional information, please contact the City of Hayward Development Review Services Division, 777 B Street, Hayward, CA 94541-5007 or telephone (510) 583-4213

DISTRIBUTION/POSTING

- Provide copies to project applicants and all organizations and individuals requesting it in writing.
- Reference in all public hearing notices to be distributed 30 days in advance of initial public hearing and/or published once in Daily Review prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.

CONDITIONS OF APPROVAL
Use Permit Application 01-160-11
KFAX Radio Towers

1. This permit shall become void on July 10, 2002, unless prior to that time a building permit is submitted and accepted as complete by the Building Official. A request for an extension must be submitted at least 15 days prior to the above date, which may be approved at the discretion of the Planning Director.

2. Towers and associated equipment shall be located so as to avoid any identified wetlands.

3. Prior to issuance of a building permit, proof shall be provided that permits from all requisite permitting agencies have been obtained, including but not limited to the following agencies: the Federal Communications Commission, the Federal Aviation Administration, and the San Francisco Bay Regional Water Quality Control Board.

4. Towers shall be guyless, lattice-type, monopoles finished in a nonreflective anodized metal color, unless directed otherwise by the Federal Aviation Administration (FAA). There shall be as few blinking lights as possible installed in accordance with Federal Aviation Administration requirements. Lights shall be white unless directed otherwise by the FAA.

5. Horizontal elements which may extend out from the radio transmission towers, such as to support light fixtures or the fixtures themselves, shall be designed to deter raptors from perching on them.

6. To reduce structural damage due to continuing consolidation of fill, pile foundations will be required to be designed to include the negative friction (downdrag) imposed by consolidation of the upper 20 feet of material and tower pads and pilings will be designed in accordance with Uniform Building Code, Seismic Zone 4 requirements.

7. Prior to construction (within 30 days) a survey shall be carried out by a wildlife biologist for the presence of burrowing owl, northern harrier, and short-eared owl. A 250-foot buffer shall be established around any nest of these species prior to initiating installation of the radio transmitter towers. Alternatively, construction shall wait until the young have fledged before installing the towers.

8. A drainage plan shall be approved by the City Engineer prior to issuance of a building permit for the radio transmitter facilities and accessory structures.

9. The accessory building shall be constructed of decorative noncombustible materials. The color and design of the building shall be approved by the Planning Director prior to issuance of a building permit.

10. Fencing shall consist of decorative metal fencing (such as wrought iron or tubular metal) which shall be installed and maintained in a damage free condition around each radio tower. The height and design of the fence shall be approved by the Planning Director prior to issuance of a building permit.

11. Prior to the final City inspection of the towers, the access road, turn-around area, and pedestrian path shall be constructed to provide access to and about the site. Design, location and materials regarding the above improvements shall be approved by the Planning Director prior to issuance of a building permit. All construction shall be accomplished to the satisfaction of the City Engineer.

12. Access to the site during construction and for maintenance purposes is required to be surfaced with a material that prevents, to the extent possible, vehicles from tracking mud and dust onto public streets. In addition, wheels may be required to be washed before entering the public street.

13. If in the event interference of any kind occurs that affects any other municipal communications systems, or the communications systems of any other public or private entity, the owner of the radio towers, at their expense, shall immediately filter the interfering signals entirely and immediately correct any problem. Any unwarranted delay shall result in a review of the use permit for the towers by City Council for possible revocation and removal.

14. If any refuse is brought to the surface during drilling, it shall be transported to an open sanitary landfill.

15. Owner of the KFAX radio transmitter facilities, or their successors, shall be responsible for the maintenance of the site, including assurance that the site is disked and seeded on a yearly basis, removing any garbage or other debris dumped on the site, and maintaining in good condition all equipment related to the radio transmission facilities.

16. In the event the radio transmitter facilities become obsolete or otherwise not used for a period not to exceed one year, the facilities shall be removed from the site and the integrity of the clay and fill cap retained. Should the owner of these facilities fail to remove the equipment in accordance with this condition, the City shall remove the equipment, with all resulting costs to be borne by the owner of the facilities.

17. Lights about the base of the towers, if needed for safety, security, or operations, shall be shielded from public view, and non-glare fixtures and the use of switches, sensors, and timers will be used to minimize the time that lights not needed for safety and security are on. A lighting plan shall be approved prior to issuance of a building permit.

18. The owner of the ratio transmission facilities shall comply with all conditions and assignments in the terms of agreement between the City of Hayward, as land owner, and Golden Gate Broadcasting, Inc.

19. Violation(s) of these conditions may result in revocation of the use permit for the radio transmitter facility within a public hearing before the proper review body.

MITIGATION MONITORING PLAN FOR THE RELOCATION OF RADIO TRANSMITTER FACILITIES AS REQUEST BY CALPINE/BECHTEL JOINT DEVELOPMENT FOR THE CITY OF HAYWARD

	IMPACT	MITIGATION REQUIRED	MONITORING RESPONSIBILITY	TIMING
1a, 1b, & 1c	The project will have a visual impact.	The towers will be replacing similar towers that are similarly visible from the shoreline and will be designed as to appear to recede into the backdrop of the sky and the East Bay Hills. Transfer equipment enclosure and electronic enclosures will be finished in earth tone colors.	City of Hayward, Planning Division	Prior to issuance of the Building Permit tower design and colors will be approved
1d	The project will introduce white strobe aircraft warning lights and ground level security lighting.	The aircraft warning lights will be installed in a similar manner to those on the nearby KTCT transmitter tower. Security lighting will be non-glare fixtures on sensors and timers.	City of Hayward, Public Works	Prior to the issuance of a Building Permit, locations of all lighting shall be approved by the Planning Director and the Airport Manager
6a (ii) & (iii)	The project has the potential to be damaged by strong seismic ground shaking and ground failure including liquefaction.	Pile foundations will be designed to include the negative friction (down drag) imposed by consolidation of the upper 20 feet of ground fill material and tower pads. Pilings will be designed in accordance with CBC, Seismic Zone 4 requirements.	City of Hayward, Building Division	Prior to the submittal of a Building Permit Application
8d	Alteration to the on-site or area drainage pattern which would result in substantial erosion; on - or off-site.	Submit a drainage plan for the review and approval by the City Engineer and San Francisco Bay Regional Water Quality Control Board.	City of Hayward, City Engineer & San Francisco Bay Regional Water Quality Control Board	Prior to the issuance of a Building Permit for the radio transmitter facilities and accessory structures
15c	The height of the Transmitter facility could result in a change to air traffic patterns.	An Airspace Analysis is required to be prepared and completed to the satisfaction of the Federal Aviation Administration (FAA).	Federal Aviation Administration	Prior to the issuance of a Building Permit

ATTACHMENT F